IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 75 OF 2006

Daryus S. Panthakey ...Petitioner

versus

Municipal Corporation of Gr. Mumbai and others ...Respondents

Mr. J.B. Chinoy, instructed by Mr.Vinod Thaker, for the petitioner.
Mr. K.K. Singhvi, Senior Advocate, with Mrs. P.A. Purandare for the BMC.

CORAM: **SWATANTER KUMAR, C.J.** &
J.P. DEVADHAR, J.
DATE: **DECEMBER 12, 2007**.

P.C.

According to the learned counsel appearing for the respondents, the present writ petition is squarely covered by the judgment of the Full Bench of this Court dated 1st November, 2007, in the case of *Tulsiwadi Navnirman Co-op. Hsg. Society Ltd. and another* vs. *State of Maharashtra* (Writ Petition No. 1326 of 2007 and others). However, according to the learned counsel appearing for the petitioner, the writ would be maintainable before this Court particularly because he has taken up the plea of fraud and the matter was remanded by the Supreme Court.

2. We are unable to find any merit in this contention as, when the matter was remanded by the Supreme Court to this Court, the judgment of the Full Bench of this Court was not in existence. The Full Bench judgment is wide enough to cover all cases including that of fraud. In fact, where fraud is pleaded, it will be more appropriate that such a petition is heard by the High Power Committee constituted by the Government as such finding of facts can hardly be recorded by the Court in exercise of its powers under Article 226 of the Constitution of India.

3. The writ petition is disposed of with the above observations. Liberty to the petitioner to approach the Committee within four weeks from today and to make appropriate application praying for interim orders as well. We make it clear that we are not issuing any directions in relation to grant of interim reliefs.

CHIEF JUSTICE

J.P. DEVADHAR, J.